

# **CALFRESH (CF) PROGRAM REQUEST FOR POLICY/REGULATION INTERPRETATION**

**INSTRUCTIONS:** Complete items 1 - 10 on the form. Use a separate form for each policy interpretation request. If additional space is needed, please use the second page. Be sure to identify the additional discussion with the appropriate number and heading. Retain a copy of the CF 24 for your records.

- Questions from counties, including county Quality Control, must be submitted by the county CalFresh Coordinator and may be submitted directly to the CalFresh Policy analyst assigned responsibility for the county, with a copy directed to the appropriate CalFresh Policy unit manager.
- Questions from Administrative Law Judges may be submitted directly to the CalFresh Policy analyst assigned responsibility to the county where the hearing took place, with a copy of the form directed to the appropriate CalFresh Bureau unit manager.

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|---|--|---------------------------|
| 1. RESPONSE NEEDED DUE TO:<br><input type="checkbox"/> Policy/Regulation Interpretation<br><input type="checkbox"/> QC<br><input checked="" type="checkbox"/> Fair Hearing<br><input type="checkbox"/> Other: | 5. DATE OF REQUEST:<br>2/5/14  | NEED RESPONSE BY:<br>asap |
| 2. REQUESTOR NAME:  | 6. COUNTY/ORGANIZATION:<br>Sacramento  |                           |
| 3. PHONE NO.:   | 7. SUBJECT:<br>Disqualifying Felony  |                           |
| 4. REGULATION CITE(S):<br>WIC 18901.3(b); MPP 63-402.229(a)   | 8. REFERENCES: (Include ACL/ACIN, court cases, etc. in references)<br><b>NOTE: All requests must have a regulation cite(s) and/or a reference(s).</b><br><br>WIC 18901.3(b); MPP 63-402.229(a) |                           |

9. QUESTION: (INCLUDE SCENARIO IF NEEDED FOR CLARITY):

The issue concerns a county action discontinuing the claimant's CF benefits due to a prior felony conviction. The claimant was convicted in federal district court in Missouri in 2012 following guilty pleas to two felonies, both of which involved possession of pseudoephedrine, a precursor used in the manufacture of methamphetamine. Both offenses occurred in 2010. The first plea was to violating 21 USC 841(c)(2) and 846 for "conspiracy to possess pseudoephedrine knowing that it would be used to manufacture methamphetamine." The second plea was for violating 21 USC 841(c) (2) for "possessing pseudoephedrine knowing that it would be used to manufacture meth."

The county contends the convictions are disqualifying for CF eligibility purposes. The ALJ concluded they are not. The ALJ held that "intent" to manufacture rather than mere "knowledge" is required for CF purposes. His reasoning seems to be that knowledge of what another might do with the pseudoephedrine is not enough.

I need to know if the county or the ALJ is correct as to whether these convictions are disqualifying for CF purposes.

10. REQUESTOR'S PROPOSED ANSWER:

I am a retired annuitant ALJ assigned to review rehearing requests. I am interested only in ensuring that my review follows program's legal interpretations. I have no personal position on the issue, but I think the ALJ's reasoning appears sound.

Please advise. A copy of the decision will forwarded to you upon request.

11. STATE POLICY RESPONSE (CFPB USE ONLY):

CDSS concurs with the original ALJs decision. A conviction for "possession of pseudoephedrine knowing that it would be used to manufacture methamphetamine" is not the same as "possessing precursors with the intent to manufacture a controlled substance."

## **FOR CDSS USE**

DATE RECEIVED:

2/5/14

DATE RESPONDED TO COUNTY/ALJ:

3/6/14 - R. Nevins